

REMARKS

Claims 1-20 were originally filed in the present application.

Claims 1-20 are pending in the present application.

Claims 1-20 were rejected in the August 6, 2007 Office Action.

No claims have been allowed.

Claims 1, 4, 5, 8, 11, 12 and 16 are amended herein.

Claims 1-20 remain in the present application.

Reconsideration of the claims is respectfully requested.

II. REJECTION UNDER 35 U.S.C. § 102

The Examiner rejected Claims 1-3, 7-10 and 14-16 under 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 6,243,367 to *Hussain* (“*Hussain*”). Of these, Claims 1, 8 and 16 are independent. These rejections are respectfully traversed for the reasons discussed below.

A prior art reference anticipates a claimed invention under 35 U.S.C. § 102 only if every element of the claimed invention is identically shown in that single reference, arranged as they are in the claims. (*MPEP* § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. (*MPEP* § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

The Applicant respectfully submits that *Hussain* fails to disclose, teach or suggest “a server status store operable to store server status information for each of a plurality of servers, the server status information for each server comprising load information for the server; and a server assigner operable to collect server status information from the servers, to store the server status information in the server status store, and to assign one of the servers to host one of the wireless communication devices based on the server status information,” as recited by independent Claim 1, as amended.

With regard to the assignment of a server to host a wireless communication device based on server status information, the Examiner relied on *Hussain* to show a base station server that “assigns one of the base stations 321-326 to host the mobile unit. The assignment is based on the statuses of the base stations.” Office Action, page 7. However, this is an inaccurate characterization of the art. The cited portion of *Hussain* merely shows a base station that assigns another base station to a mobile unit based on signal strength as opposed to the statuses of the base stations:

The base station server 301 may then assign a client base transceiver station to handle that mobile unit according to which client base transceiver station receives the strongest reverse channel message signal or according to which client base transceiver station is most strongly received by the mobile unit.

Hussain, col. 7, lines 9-14.

In contrast, independent Claim 1, as amended, recites a server assigner that is operable to assign a server to host a wireless communication device based on server status information for the servers that includes load information for the servers. As a result, as described in the present Application, a server may be assigned based on its actual ability to handle a request. Accordingly, the system load may be more evenly balanced, thereby maximizing network usage effectiveness.

Present Application, para. 9. Simply assigning servers based on signal strength, as taught by Hussain, would not result in such a balanced load. Therefore, for at least this reason, independent Claim 1 is not anticipated by the cited art. Therefore, the Applicant respectfully submits that this rejection should now be withdrawn.

Similar to independent Claim 1, independent Claim 8, as amended, recites “a plurality of servers, each server having a varying server status, the server status for each server comprising load information for the server, the server statuses of the servers collectively forming a varying system status; and at least one interrogating state machine operable ... to assign one of the servers to host the wireless communication device based on a current system status, the current system status based on the varying system status,” and independent Claim 16, as amended, recites “assigning one of the servers to host the wireless communication device based on a server status for each of the servers, the server status for each server comprising load information for the server.” Therefore, for the reasons discussed above in connection with Claim 1, independent Claims 8 and 16 are also not anticipated by the cited art. Therefore, the Applicant respectfully submits that these rejections should now be withdrawn.

Dependent Claims 2-3 and 7, which depend from independent Claim 1, and dependent Claims 9-10 and 14-15, which depend from independent Claim 8, are also not anticipated by the cited art because they include the limitations of their respective base claims and add additional elements that further distinguish the art. Therefore, the Applicant respectfully submits that these rejections should now be withdrawn.

The Applicant also disagrees with the Examiner's rejections of Claims 1-3, 7-10 and 14-16 based on additional misdescriptions and/or misapplications of *Hussain* to at least some of Claims 1-3, 7-10 and 14-16. However, the Applicant's arguments regarding those other shortcomings of *Hussain* are moot in view of the Claim 1 arguments above. However, the Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of *Hussain* to the claims of the present application, including the right to dispute assertions made by the Examiner in the August 6, 2007 Office Action.

III. REJECTION UNDER 35 U.S.C. § 103

The Examiner rejected Claims 4-6, 11-13 and 17-20 under 35 U.S.C. §103(a) as being unpatentable over *Hussain* in view of U.S. Patent Application Publication No. 2003/0210694 to *Jayaraman, et al.* ("Jayaraman"). These rejections are respectfully traversed for the reasons discussed below.

Dependent Claims 4-6, which depend from independent Claim 1, dependent Claims 11-13, which depend from independent Claim 8, and dependent Claims 17-20, which depend from independent Claim 16, are not made obvious by the cited art because they include the limitations of their respective base claims, which are patentable as described above, and add additional elements that further distinguish the art. Therefore, the Applicant respectfully submits that these rejections should now be withdrawn.

The Applicant also disagrees with the Examiner's rejections of Claims 4-6, 11-13 and 17-20 based on additional misdescriptions and/or misapplications of *Hussain* and *Jayaraman* to at least some of Claims 4-6, 11-13 and 17-20. However, the Applicant's arguments regarding those other shortcomings of *Hussain* and *Jayaraman* are moot in view of the Claim 1 arguments above. However, the Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of *Hussain* and *Jayaraman* to the claims of the present application, including the right to dispute assertions made by the Examiner in the August 6, 2007 Office Action.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at jmockler@munckbutrus.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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